

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
NORTHERN DIVISION

TED A. KLAUDT,)	CIV. 13-1018-KES
Relator for ted a. klaudt,)	
)	
Petitioner,)	ORDER DENYING SECOND
)	MOTION TO STRIKE REPORT
vs.)	AND RECOMMENDATION
)	FOR FRAUD
STATE OF SOUTH DAKOTA and)	
MARTY JACKLEY, Attorney)	
General,)	
)	
Respondents.)	

Petitioner, Ted A. Klaudt, moves for a second time to strike the report and recommendation for fraud. On December 23, 2014, Klaudt filed a notice of appeal to the Eighth Circuit Court of Appeals from this court's order dismissing case. "Once a notice of appeal is filed, the district court is divested of jurisdiction over matters on appeal." *State ex rel. Nixon v. Coeur D'Alene Tribe*, 164 F.3d 1102, 1106 (8th Cir. 1999). As a general rule:

[A] federal district court and a federal court of appeals should not attempt to assert jurisdiction over a case simultaneously. The filing of a notice of appeal is an event of jurisdictional significance—it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal.

Griggs v. Provident Consumer Discount Co., 459 U.S. 56, 58 (1982). Because the appeal is pending, this court is without jurisdiction over petitioner's motion.

Petitioner will need to raise any further issues with the Eighth Circuit Court of Appeals. Accordingly, it is

ORDERED that petitioner's second motion to strike report and recommendation (Docket 20) is denied.

Dated February 27, 2014.

BY THE COURT:

/s/ Karen E. Schreier

KAREN E. SCHREIER
UNITED STATES DISTRICT JUDGE